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LETTER DATED 11 OCTOBER 1993 FROM THE DEPUTY PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE TRUSTEESHIP COUNCIL

Attached is a copy of a letter dated 5 October 1993 from the President of the Republic of Palau, Mr. Kuniwo Nakamura, to the Deputy Assistant Secretary of the United States Department of State, Mr. Kenneth Quinn, concerning the 9 November plebiscite on the Compact of Free Association between the United States of America and the Republic of Palau.

I should appreciate your bringing this letter to the attention of the members of the Trusteeship Council.

(Signed) Edward S. WALKER, Jr.
Deputy Permanent Representative
of the United States to the
United Nations

Annex

LETTER DATED 5 OCTOBER 1993 FROM THE PRESIDENT OF THE REPUBLIC OF PALAU, MR. KUNIWO NAKAMURA, TO THE DEPUTY ASSISTANT SECRETARY OF THE UNITED STATES DEPARTMENT OF STATE, MR. KENNETH QUINN

We understand that the United Nations Trusteeship Council is now considering the request of the United States to send a delegation to Palau to observe the 9 November plebiscite on the Compact of Free Association. The Government of Palau appreciates and strongly supports the request of the United States. The participation of the delegation is critical as we exercise our right of self-determination to determine our future status in the world.

I also want to let you know that the Government of Palau fully expects the plebiscite to be held as scheduled on 9 November 1993. We do not believe that any legal challenges will prevent the plebiscite from being held on that date.

There are opponents of the Compact and they can be expected to use every legal method available to express this opposition at the polls and in the courts. Last-minute legal challenges to the plebiscite and the Compact should not be surprising even if the grounds are without merit. However, while opponents of the Compact have a democratic right under Palau's Constitution to seek court relief, we do not believe that our courts will enjoin the plebiscite in any event.

Injunctions are disfavoured in the courts of Palau, particularly where they would interfere in the exercise of democracy. And the rights of these citizens can be protected without enjoining the plebiscite because the Compact cannot be implemented except by a subsequent agreement between the President of Palau and the President of the United States. The courts of Palau will have ample opportunity to prevent any such agreement later on if that is necessary to protect the rights of Palau's citizens. Also, under United States law, the President of the United States cannot enter into the necessary agreement if any legal challenges are pending.

There is also the question of timing. We firmly believe that any decisions relating to the conduct of the plebiscite will be decided well in advance of the 9 November plebiscite date. As to the only case pending last May, the Palau Supreme Court is scheduled on 26 October to hear and immediately decide the appeal of a lower court decision to allow the plebiscite to be held as planned. The Government of Palau won the case in the lower court, feels that the complaint is without merit and expects the court to uphold the lower court decision. The decision of the court will be final.

An additional case was filed about a week ago seeking to enjoin the plebiscite and, as noted above, other challenges certainly can be expected prior to 9 November. We do not know when these cases will be finally decided, but the Government of Palau will seek expeditious decisions and, in any event, fully expects denial of any requests to enjoin the plebiscite. Thus, we do not believe that either of the pending cases, or any future cases, will delay the 9 November vote.

The Government of Palau is obligated under the Constitution and laws of Palau and is politically committed to proceed with the plebiscite as scheduled unless the courts of Palau prevent it from doing so. If the courts of Palau should unexpectedly rule adversely in regard to the plebiscite, the Government of Palau will consider the numerous options available at that time and I will consult with our national legislature, the Olbiil Era Relualu, and the Government of the United States (and, through it, the United Nations Trusteeship Council) about the best course of action.